

# UNITED STATES DISTRICT COURT

for the

Western District of North Carolina

United States of America

v.

DARYL GIBBS

a/k/a "Ralph"

Date of Original Judgment: August 25, 2010

Date of Last Amended Judgment: N/A

Case No: DNCW309CR000039-013

USM No: 23298-058

Pro Se

Defendant's Attorney

## Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☐ DENIED. ☒ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of 240 mos. is reduced to 120 mos. custody, TSR: 8 yrs.

### I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Original Offense Level: 27

Amended Offense Level: 23

Criminal History Category: III

Criminal History Category: III

240 mos./TSR: At least 10

120 mos./TSR: At least

Original Guideline Range: yrs.

Amended Guideline Range: 8 yrs.

### II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

- ☒ The reduced sentence is within the amended guideline range.
- ☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing and the reduced sentence is comparably less than the amended guideline range.
- ☐ The reduced sentence is above the amended guideline range.
- ☒ Other (explain): In consideration of *Dorsey v. United States*, the defendant's statutory penalties changed to 5 to 40 years; however, since he incurred an enhancement under § 851, his penalty range increased to 10 years to life, with a supervised release term of at least 8 years.

### III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated August 25, 2010, shall remain in effect.

**IT IS SO ORDERED.**

Order Date: July 16, 2012

Effective Date: \_\_\_\_\_  
(if different from order date)



Frank D. Whitney  
United States District Judge

